

EXECUTIVE SUMMARY

The Judicial Council's Task Force on Self-Represented Litigants was named by Chief Justice Ronald M. George in May 2001. In response to the growing number of self-represented litigants (also known as pro pers), the task force members were charged with the following mission:

1. To coordinate the statewide response to the needs of self-represented parties;
2. To finalize development of a statewide pro per action plan and to launch implementation of that action plan, where appropriate;
3. To develop resources for pro per services, particularly for those activities in the statewide pro per action plan that require significant funding; and
4. To make recommendations to the Judicial Council, the State Bar, and other appropriate institutions about additional measures that should be considered to improve the way in which the legal system functions for self-represented parties.

The task force is chaired by Associate Justice Kathleen E. O'Leary, Court of Appeal, 4th District. Its members are a diverse group of individuals from throughout the state representing the judiciary, the State Bar of California, trial court administration, court-based self-help center attorneys, county government, local bar members, legal services, law librarians, and the public.

In this report, the task force has attempted to present a comprehensive statewide plan that effectively addresses the way in which courts are handling self-represented litigants. In its assessment of the needs of self-represented litigants, the task force found that many of California's courts have already begun to implement strategies specifically designed to manage cases involving self-represented litigants more effectively. The task force commends them and finds that there is a compelling need throughout the state for courts to change the way they have been doing business. The growth in the numbers of pro per litigants has been documented in a myriad of reports and articles and particularly in the strategic plans submitted by local courts to the Judicial Council. In its analysis of these strategic plans, the Judicial Council identified both social and economic trends that are generating ever-increasing numbers of self-represented litigants in the courts. Court operational systems, in accord with traditional adversary jurisprudence, have been designed to manage a flow of cases in which the vast majority of litigants have had attorneys to represent them. Strategies for handling cases without attorneys have typically not been addressed as a core function of the courts. The same economic trends currently creating adverse fiscal conditions for courts are also working to increase the population of self-represented litigants. This is a reality that is unlikely to change any time soon.

The task force has found a unity of interest between the courts and the public with respect to assistance for self-represented litigants. Lack of legal assistance is a clearly definable access issue for the public. It also creates a structural gap for the courts. Many local strategic plans made the link between improved assistance to self-represented litigants and the improvement of the management and administration of the courts. Cost benefits to the courts produced by pro

per assistance programs have already been documented in terms of savings in courtroom time; reduction of inaccurate paperwork, inappropriate filings, unproductive court appearances, and resulting continuances; and increases in expeditious case management and settlement services. The success of these programs provides direction to courts as they attempt to deal with current budget conditions. It is imperative to the efficient operation of today's courts that well-designed strategies to serve self-represented litigants are incorporated throughout the full scope of court operations. The task force believes that unless the impact on self-represented litigants is a critical consideration in planning, any redesign of court operations will not be successful in producing positive net savings.

With its family law facilitator program, family law information centers, self-help Web site, self-help pilot projects, equal access partnership grants, and numerous innovative programs created by local courts in collaboration with bar associations and legal services, California has led the nation in beginning to address the reality of litigation involving self-represented litigants. The task force believes that California is in the best position to continue this leadership role.

Background Information

In November 1999, the American Judicature Society held a National Conference on Self-Represented Litigants Appearing in Court, sponsored by the State Justice Institute. The Chief Justice appointed a team to attend the conference. The team developed a draft action plan that resulted in four regional conferences in California designed to encourage trial courts to develop their own action plans for serving self-represented litigants. To date 52 of California's 58 county courts have participated in this planning process, and 45 have completed their plans. The task force has reviewed all 45 action plans.

Through this planning process, local trial courts reported growing numbers of self-represented litigants in all areas of civil litigation. Action plans reported up to 95 percent pro per rates in unlawful detainer, 55 percent in probate, 50 percent in general civil, 40 percent in juvenile dependency, and 95 percent in family law. Available data from the Judicial Branch Statistical Information System (JBSIS) shows that at the time of disposition, petitioners in dissolution cases were pro per 80 percent of the time and in paternity cases 96 percent. In one 12-month period, California's family law facilitator program served over 450,000 self-represented litigants, the family law information centers served over 45,000 such individuals, and over 1 million people used the California Courts Online Self-Help Center. Over 4.3 million of California's court users are self-represented. The number of Californians whose income is not sufficient to afford private legal representation, yet is above the limits of entitlement to free service from legal aid assistance programs or the public defender, continues to grow and results in larger numbers of self-represented litigants within even the juvenile and criminal law departments.

Recommendations

In crafting its recommendations, the task force has, to the greatest extent possible, attempted to include replication of existing best practices, collaborative efforts, development of standardized criteria for self-help centers, and other cost-effective methods or procedures. Mindful of the need to ensure the wisest utilization of scarce public resources, the task force has attempted to

design processes and tools to measure outcomes. Additionally, an effort has been made to identify both existing and potential funding sources.

The task force has analyzed the self-represented litigants action plans submitted by the local trial courts, consulted with Judicial Council advisory committees on subject matter concerns, and met with experts on serving self-represented litigants. These recommendations are designed to assist California's courts to continue their leadership role in creating operational systems that work well for the management of cases involving self-represented litigants and in improving access to justice for the public.

RECOMMENDATION I: SELF-HELP CENTERS

IN ORDER TO EXPEDITE THE PROCESSING OF CASES INVOLVING SELF-REPRESENTED LITIGANTS, AND INCREASE ACCESS TO JUSTICE FOR THE PUBLIC, COURT-BASED SELF-HELP CENTERS SHOULD BE DEVELOPED THROUGHOUT THE STATE.

THE TASK FORCE RECOMMENDS THAT:

- A. The Judicial Council include self-help services as a core court function in the trial court budget process.
- B. Courts utilize court-based, attorney-supervised, staffed self-help centers as the optimum way to facilitate the efficient processing of cases involving self-represented litigants and to increase access to justice for the public.
- C. Self-help centers conduct initial assessment of a litigant's needs (triage) to save valuable court time and allow for the most prudent allocation of resources.
- D. Court-based self-help centers serve as focal points for countywide or regional programs, in collaboration with legal services, local bar associations, and other community stakeholders, for assisting self-represented litigants.
- E. Self-help centers provide ongoing assistance throughout the entire court process, including collection and enforcement of judgments and orders.

RECOMMENDATION II: SUPPORT FOR SELF-HELP SERVICES

A SYSTEM OF SUPPORT SHOULD BE DEVELOPED AT THE STATE LEVEL TO PROMOTE AND ASSIST IN THE CREATION, IMPLEMENTATION, AND OPERATION OF THE SELF-HELP CENTERS AND TO INCREASE THE EFFICIENT PROCESSING OF CASES INVOLVING SELF-REPRESENTED LITIGANTS.

THE TASK FORCE RECOMMENDS THAT:

- A. The Administrative Office of the Courts (AOC) maintain a resource library with materials for use by self-help centers in the local courts.

- B. The AOC provide technical assistance to courts on implementation strategies.
- C. The AOC gather and evaluate information about the feasibility of implementing a telephone help-line service to support local self-help centers with access to AOC attorneys.
- D. The AOC serve as a central clearinghouse for translations and other materials in a variety of languages.
- E. The AOC expand the California Courts Online Self-Help Center.
- F. The Judicial Council continue to simplify its forms and instructions.
- G. The AOC continue to provide technical training and assist local courts in the development and implementation of self-help technology on countywide or regional bases.
- H. The Judicial Council continue to support increased availability of representation for low- and moderate-income individuals.
- I. The Judicial Council continue to work with the State Bar in promoting access for self-represented litigants.
- J. The AOC provide technical assistance related to self-represented litigants to courts that are developing collaborative justice strategies.

RECOMMENDATION III: ALLOCATION OF EXISTING RESOURCES

PRESIDING JUDGES AND COURT EXECUTIVES SHOULD CONSIDER THE NEEDS OF SELF-REPRESENTED LITIGANTS IN ALLOCATING EXISTING JUDICIAL AND STAFF RESOURCES.

THE TASK FORCE RECOMMENDS THAT:

- A. Judicial officers handling large numbers of cases involving self-represented litigants be given high priority for allocation of support services such as research attorneys.
- B. Courts continue, or implement, a self-represented litigant planning process that includes both court and community stakeholders, and works toward ongoing coordination of efforts.

RECOMMENDATION IV: JUDICIAL BRANCH EDUCATION

IN ORDER TO INCREASE THE EFFICIENCY OF THE COURT AND TO MINIMIZE UNWARRANTED OBSTACLES ENCOUNTERED BY SELF-REPRESENTED LITIGANTS, A JUDICIAL BRANCH EDUCATION PROGRAM SPECIFICALLY DESIGNED TO ADDRESS ISSUES INVOLVING SELF-REPRESENTED LITIGANTS SHOULD BE IMPLEMENTED.

THE TASK FORCE RECOMMENDS THAT:

- A. A formal curriculum and education program be developed to assist judicial officers and other court staff in dealing with the population of litigants who navigate the court without the benefit of counsel.
- B. The AOC provide specialized education to court clerks to promote their ability to provide the public with high-quality information and appropriate referrals, as well as to serve as support staff to the self-help centers.

RECOMMENDATION V: PUBLIC AND INTERGOVERNMENTAL EDUCATION AND OUTREACH
JUDICIAL OFFICERS AND OTHER APPROPRIATE COURT STAFF SHOULD ENGAGE IN COMMUNITY OUTREACH AND EDUCATION PROGRAMS DESIGNED TO FOSTER REALISTIC EXPECTATIONS ABOUT HOW THE COURTS WORK.

THE TASK FORCE RECOMMENDS THAT:

- A. The AOC continue to develop informational material and explore models to explain the judicial system to the public.
- B. Efforts to disseminate information to legislators about services available to, and issues raised by, self-represented litigants be increased.
- C. Local courts provide law enforcement, local bar associations, law libraries, local domestic violence councils, and other appropriate community groups with information on issues and services related to self-represented litigants.
- D. The Judicial Council continue to coordinate with the State Bar of California, the Legal Aid Association of California, the California Commission on Access to Justice, and other statewide entities on public outreach efforts.

RECOMMENDATION VI: FACILITIES
SPACE IN COURT FACILITIES SHOULD BE MADE AVAILABLE TO PROMOTE OPTIMAL MANAGEMENT OF CASES INVOLVING SELF-REPRESENTED LITIGANTS AND TO ALLOW FOR EFFECTIVE PROVISION OF SELF-HELP SERVICES TO THE PUBLIC.

THE TASK FORCE RECOMMENDS THAT:

- A. Court facilities plans developed by the AOC include space for self-help centers in designs for future court facilities, or remodeling of existing facilities.

- B. Facilities include sufficient space for litigants to wait while conducting business at the court.
- C. There be sufficient space at or around courtrooms to wait for cases to be called, to meet with volunteer attorneys, to conduct settlement talks, and to meet with mediators and social services providers.
- D. Facilities include children's waiting areas for litigants who are at the court for hearings or to prepare and file paperwork.
- E. Information stations that can provide general information about court facilities and services be placed near court entrances.
- F. Courts provide maps and signage in several languages to assist self-represented litigants in navigating the court.

RECOMMENDATION VII: FISCAL IMPACT

IN ADDRESSING THE CRITICAL NEED OF COURTS TO EFFECTIVELY MANAGE CASES INVOLVING SELF-REPRESENTED LITIGANTS AND TO PROVIDE MAXIMUM ACCESS TO JUSTICE FOR THE PUBLIC, CONTINUED EXPLORATION AND PURSUIT OF STABLE FUNDING STRATEGIES IS REQUIRED.

THE TASK FORCE RECOMMENDS THAT:

- A. Continued stable funding be sought to expand successful pilot programs statewide.
- B. The AOC identify, collect, and report on data that support development of continued and future funding for programs for self-represented litigants.
- C. Standardized methodologies to measure and report the impact of self-help efforts continue to be developed.
- D. Uniform standards for self-help centers be established.
- E. The feasibility of additional revenue generating techniques, such as fees for selected services by self-help centers, be explored if appropriate.
- F. Efforts of the courts to seek supplemental public funding from local boards of supervisors and other such sources to support local self-help centers be supported and encouraged.
- G. Court-based fees be used for court-based self-help services.

- H. AOC assistance with grant applications and other resource enhancing mechanisms continue to be offered to local courts.

RECOMMENDATION VIII: IMPLEMENTATION OF STATEWIDE ACTION PLAN

TO PROVIDE FOR SUCCESSFUL IMPLEMENTATION OF THIS STATEWIDE ACTION PLAN, A SMALLER TASK FORCE CHARGED WITH THE RESPONSIBILITY OF OVERSEEING IMPLEMENTATION SHOULD BE ESTABLISHED.

THE TASK FORCE RECOMMENDS THAT:

- A. The implementation task force be composed of experts in the areas of judicial education, court facilities, legislation, judicial finance and budgeting, court administration and operations, and court-operated self-help services.
- B. The implementation task force have representation from existing Judicial Council advisory committees.

Conclusion

This task force has attempted to fulfill its mission by presenting a comprehensive statewide plan that addresses the critical need of courts to effectively manage cases involving self-represented litigants while providing assistance to the public. The handling of self-represented litigants is a daily business event at every level of court operations— from filing through calendaring, records management, and courtroom hearings. As courts plan during this period of fiscal austerity, attention to the reality of these cases will be imperative to any realization of net savings. Providing assistance to self-represented litigants clearly addresses the need of the self-represented public for information, but it is a matter of administrative efficiency for courts. The task force believes that by directly confronting the enormity of pro per litigation, courts can improve the quality of their service to the public and reduce the time and cost of service delivery.

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